IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 707 of 2002 (S/B)

Sri S.C. Sharma
S/o Late Sri R.C. Sharma
R/o Kalawati Colony, Nawabi Road
Haldwani, District Nainital. .....Petitioner

Versus

1. Food Corporation of India, 16-20 Barakhamb Lane New Delhi-1, through its Managing Director.
2. Sr. Regional Manager, F.C.I. 98 Nesh Villa Road Dehradun, Uttaranchal.
3. Zonal Manager (North), F.C.I., Dehradun Uttaranchal.
4. Sri K.S. Sethi, Sr. Regional Manager, F.C.I. Dehradun, Uttaranchal.
5. Regional Manager, F.C.I. Regional Office 98, Nesh Villa Road, Dehradun, Uttaranchal.
6. Sri S.B. Singh, Regional Manager, F.C.I. Regional Office, 98 Nesh Villa Road, Dehradun Uttaranchal.
7. District Manager, F.C.I., Haldwani, District Office 7/47, Bhotia Paraw, Haldwani.
8. Sri Ashraf Ali, District Manager, F.C.I. District Office 7/47, Bhotia Parav, Haldwani.

.....Respondents.

Shri J.C. Joshi, Sr. Advocate, assisted by Shri Chetan Joshi, learned counsel for the petitioner.
Shri M.C. Pandey, learned counsel for the respondents.

Hon'ble Prafulla C. Pant, J

By means of this writ petition, moved under Article 226 of Constitution of India, the petitioner has sought writ in the nature of certiorari quashing the charge sheet dated 18th /24th of April, 2002, issued against the petitioner.

2. Heard learned counsel for the parties.

3. Brief facts of the case, as narrated in the writ petition are that the petitioner is posted as Assistant Grade I (M) with the respondent-Food Corporation of India (for brevity herein after referred as F.C.I.) with its district office at Haldwani. According to the petitioner, he is a Regional Convener of F.C.I. Employees Union and was looking after the interest of the employees, which caused annoyance to the respondent-Shri Ashraf Ali, District Manager of F.C.I. It is alleged in the petition that with a motive to damage the interest of the employees, and particularly that of the union, the aforesaid District Manager, issued notice to the petitioner. Malice has also been alleged against Shri K.S. Sethi, Senior Regional Manager of F.C.I., as he gave memorandum/show cause notice, threatening the petitioner of disciplinary action for his activities. It is stated in the writ petition that the petitioner used to bring problems of the employees to the notice of the officers of the Food Corporation of India, who instead of taking steps for redressal of the grievances, have started threatening the office hearers of the union by issuing false memorandum and charge sheet. Referring to the meeting with thee officers and letter issued by one Shri Upendra Kumar, General Secretary of F.C.I. employees union, it is alleged that on 16.10.2001, Shri Ashraf Ali, District Manager and other respondents, accepted the demand of the employees and the matter was amicably settled, where after relay fast of the employees against the District Manager was withdrawn., However, after the agitation is withdrawn, the District Manger, issued memorandum and show cause notice to the petitioner and

thereafter the impugned charge sheet has been serve on the petitioner. Alleging that the issuance of charge sheet is based on the malice harboured against the petitioner, the same is sought to be quashed.

4. The respondents have contested the writ petition and filed a counter affidavit of Shri Rewa Lal, Regional Manager, F.C.I. It is admitted that the petitioner is Assistant Grade I (M), posted with Haldwani office of the organization. It is also not disputed that he is Regional Convener of the F.C.I. employees union. However, rest of the contents of the petition, as narrated, are not admitted and are denied. It is stated in the counter affidavit that the petitioner does not discharge his official duties and responsibility, nor does he observe punctuality. It is further stated that the petitioner is habitual absentee from official work. It is also alleged that he ignores and disobeys the orders of his senior officers. Denying that, Shri Ashraf Ali, had any malice with the petitioner, it is alleged that the petitioner ignoring the departmental authorities, makes correspondence directly to the higher authorities. He had time and again been adviced to do his work. Instead of improving his work, he started making false allegations against the officers of the F.C.I. In para-24 of the counter affidavit, it has been stated that the petitioner has gone to the extent of making baseless allegations in the press, which were published in a paper known as “Amar Darpan” on 29.10.2001, which were defamatory and detrimental to the interest of the F.C.I. Defending the impugned charge sheet issued against the

petitioner, it is alleged that instead of replying the charge sheet, the petitioner showing his disobedient behaviour without exhorting the remedy, available in the departmental channel by questioning the charge sheet before this Court. In para-34 of counter affidavit, as many as 15 orders/letters, are enumerated showing the inefficient working of the petitioner.

5. Before further discussions, it is pertinent to mention here about the contents of the impugned charge sheet which is served on the petitioner. The impugned charge sheet, reads as under:-

"Shri S.C. Sharma A.G.-I (M) while posted and working in F.C.I. Distt. Office Haldwani as such during Sept. 01 to Feb. 02 absolutely and miserably failed to perform his duties maintain office decorum sincerely, honestly, devotedly and faithfully and his act of gross and wilful insubordination, misconduct, subversive indiscipline caused to serious impact and set back in office functioning and badly tarnished the image of the Corporation.

While drawing the appearance of participation by name in news item of Amar Darpan (Weekly) of 29.10.2001 Nainital edition he did not submit any evidence of approaching to contradict such news rather in his explanation dated 11.01.02 using words acrimonious and disgracious memorandum.

The said Shri S.C. Sharma has in several correspondences used words 'mean and mean' 'tactics' while exchanging correspondence with District Manager, F.C.I., Haldwani, which goes to reflect his gross

insubordination and such scurrilous words show his disrespect to his superiors with a apprehension of maligning the image at large.

He thus caused disturbances by indulging into teasing and personal dialogue/slogan against the district Manager, F.C.I., Haldwani and thereby disturbing peace and dignity of working culture also. He often indulges in unfair activities and does not perform his official duties and also disobeys even the fair and lawful orders of his superiors.

The said Shri S.C. Sharma by his indecent behaviour, undue disregard disrespect to his senior and fluting their instructions with threat and provocation for litigation and by these unwarranted act of his misconduct violated conduct rules gravely.

From the above facts and findings it is crystal clear that the said Shri S.C. Sharma A.G-I (M) acted in an indecent manner with severe misconduct and also in a manner unbecoming to an employee of the Corporation and thereby he violated/contravened Regulation 31, 32 read with 32 of F.C.I., Staff Regulation, 1971.

(K.S. Sethi)
Sr. Regional Manager."

6. Learned counsel for the petitioner argued that the above charge sheet is issued against the petitioner due to the malice harboured by Shri Ashraf Ali, District Manager and Shri K.S. Sethi, Senior Regional Manager. It is further argued that the said two authorities have not filed their counter affidavit. However, in reply to this, learned

counsel for the respondents, stated that the counter affidavit has been filed on behalf of the F.C.I. and the above two are only the officers of said Corporation. It is further submitted on behalf of the respondents that there is no specific allegations of malice against the two, rather the allegations are vague and general in nature, as said counter affidavit, filed on behalf of the respondents give sufficient reply to the points raised by the petitioner.

7. The only question to be examined by this Court is whether the impugned charge sheet is issued only due to the malice or not, and is the same not based on material on record? Annexure C.A. 2 to the counter affidavit is copy of news item, published in paper "Amar Darpan" under the title "[kksVk flDdk lkfcr gks jgs gSa Hkkjrh; [kk| fuxe ds ftyk izcU/kd ". Annexure C.A. 3 to the counter affidavit is copy of letter dated 08.04.1992 that is about ten years before the charge sheet was served, which discloses the report of non compliance of orders of superior officers by S.C. Sharma, A.G. I (M) (present petitioner). Annexure C.A. 4 to the counter affidavit is a copy of memorandum dated 01.05.1996, issued by the then Deputy Manager to the petitioner, alleging that he, time and again, is disobeying the officer orders. This document is also five years before the charge sheet is served on the petitioner. There is yet another document dated 28.03.1993, issued by then District Manager, copy of which is Annexure C.A. 5 to the counter affidavit, which also points out that the petitioner is in the habit of disobeying the orders of the senior officers. Annexure C.A. 7 to the counter affidavit,

shows warning issued to the petitioner on 28.07.1998, vide letter No. 3492. Annexure C.A. 11 to the counter affidavit, which is letter dated 14.08.2000, further shows that Shri S.C. Sharma (petitioner) A.G.IO. (M) had left the Headquarters for 4-5 days without any intimation to the authorities. There are other documents showing conduct of the petitioner e.g. Annexure C.A. 18 to the counter affidavit, shows that in the year 2000 also the petitioner was punished for the misconduct he committed. In view of all the above material, which relates to the period prior to when Shri Ashraf Ali was posted as District Manager or Shri K.S. Sethi, was posted as Senior Regional Manager it cannot be said that they got issued the charge Sheet due to malice. Therefore, this Court is unable to accept the contention of the learned counsel for the petitioner that the impugned charge sheet is based on malice harboured by either Shri Ashraf Ali, District Manager or Shri K.S. Sethi, Senior Regional Manager.

8. For the reasons, as discussed above, this Court is not inclined to interfere with the impugned charge sheet served on the petitioner by the employer-F.C.I. The writ petition is liable to be dismissed. The same is dismissed.

Dt. 16.12.2006 **(Prafulla C. Pant, J.)**
S